SEALED

CLERK'S OFFICE U.S. DIST. COURT
AT HARRISONBURG, VA
FILED

MAY 1 1 2017

JULIA C. DUDLEY, CLERK
BY: [signature]
DEPUTY CLERK

# UNITED STATES DISTRICT COURT

for the

Western District of Virginia

In the Matter of the Search of

*(Briefly describe the property to be searched or identify the person by name and address)*

INFORMATION ASSOCIATED WITH THE CELLULAR TELEPHONE ASSIGNED CALL NO. (717) 654-3251, STORED AT PREMISES CONTROLLED BY VERIZON

Case No. 5:17mj17

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

SEE ATTACHMENT A.

located in the ____________ District of ____________, there is now concealed *(identify the person or describe the property to be seized)*:

SEE ATTACHMENT B.

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☑ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

| *Code Section* | *Offense Description* |
|---|---|
| 18 USC 1341 | MAIL FRAUD |
| 18 USC 1343 | WIRE FRAUD |
| 18 USC 1349 | CONSPIRACY TO COMMIT MAIL AND WIRE FRAUD |

The application is based on these facts:

SEE ATTACHED AFFIDAVIT.

☐ Continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: ____________ ) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

/s/Burt B.Foster, Jr.

*Applicant's signature*

BURT B. FOSTER, JR.

*Printed name and title*

Received by reliable electronic means and sworn and attested to by telephone.

~~Sworn to before me and signed in my presence.~~

Date: 05/11/2017

[signature]

*Judge's signature*

City and state: Harrisonburg, VA

Honorable Joel C. Hoppe

*Printed name and title*

SEALED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

| | |
|---|---|
| IN THE MATTER OF THE SEARCH OF INORMATION ASSOCIATED WITH THE CELLULAR TELEPHONE ASSIGNED CALL NUMBER **(717) 654-3251,** THAT IS STORED AT PREMISES CONTROLLED BY **VERIZON** | Case No. 5:17mj17<br>**Filed Under Seal** |

## AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR A SEARCH WARRANT

I, Burt B. Foster, Jr., a Postal Inspector with the United States Postal Inspection Service, being first duly sworn, do hereby depose and state as follows:

### INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant for information associated with a certain cellular telephone assigned call number **(717) 654-3251**, ("the SUBJECT PHONE"), that is stored at premises controlled by **VERIZON**, a wireless telephone service provider headquartered at 180 WASHINGTON VALLEY ROAD, BEDMINSTER, NJ 07921. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. § 2703(c)(1)(A) to require **VERIZON** to disclose to the government copies of the information further described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review the information to locate items described in Section II of Attachment B.

2. I have been a Postal Inspector with the United States Postal Inspection Service ("USPIS") since March 2001. I have conducted a variety of criminal investigations including mail theft, mail fraud, identity theft, assaults, robberies, burglaries, financial crimes, and

computer crimes. I am currently assigned to a Mail Fraud/Revenue Investigations team located in Northern Virginia where my primary assignment is to investigate the defrauding of U.S. citizens and the United States Postal Service. I am an investigative or law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7), and am empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in 18 U.S.C. § 2516. I have specialized training and experience in investigations involving corporate fraud and financial crimes. Among other things, I have conducted numerous searches and interviews, gathered documents through grand jury investigations and voluntary productions, and conducted physical and electronic surveillance. During my career, I have participated in a number of investigations involving businesses or business people suspected of engaging in fraud-related schemes, including embezzlement, misappropriation, theft, and conversion of corporate funds.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that violations of 18 U.S.C. §§ 1341 (mail fraud), 1343 (wire fraud), and 1349 (conspiracy to commit mail fraud and/or wire fraud) have been committed by Michael Dean KENT and others known and unknown. There is also probable cause to search the information described in Attachment A for evidence, contraband, and/or fruits of these crimes further described in Attachment B.

## PROBABLE CAUSE

5. The United States, including the USPIS, is investigating possible violations of the mail fraud and wire fraud statutes. From in or around 2014 to in or around April 2017, there is probable cause to believe KENT used and/or caused to be used the U.S. Postal Service, telephone contacts, and electronic communications to induce individuals ("VICTIMS") to sign contracts to sell their partial interests in certain real estate properties, commonly known as timeshares ("TIMESHARES"). KENT conspired with others, known and unknown, to convince VICTIMS to sign contracts and send currency, via the U.S. mail for the purpose of defrauding the VICTIMS. KENT and his coconspirators targeted hundreds of VICTIMS in more than a dozen states in the U.S. and Canada. Typically, each VICTIM paid KENT between $500 and $1,500.

6. KENT and his coconspirators represented themselves to be representatives of at least two different companies, including The Holiday Property Group LLC ("HPG") and Vacation Properties by Owners LLC ("VPO"). KENT and his coconspirators used different company names at different times. After there were numerous complaints received by outside consumer protection non-profit organizations, such as the Better Business Bureau, KENT closed down HPG, moved from Virginia to North Carolina, and started a new company named VPO that operated in the same way. KENT and his coconspirators represented that both HPG and VPO facilitated the transfer of TIMESHARES between buyers and sellers.

The Holiday Property Group LLC

7. HPG was active between approximately 2014 and 2016. KENT's name appeared as "Michael Dean Kent" on email correspondence from HPG.

8. Bank records show that during the time period HPG was active, the bank account belonging to HPG was "linked" to a personal debit card account held in KENT's name and opened using his personal identifiers. "Linked" accounts are those that involve multiple accounts under the same user/customer profile for the bank, allowing for ease of transferring funds electronically between accounts belonging to the same user/customer. Linked accounts are generally owned and operated by the same business or individual.

9. The VICTIMS owned interests in TIMESHARES that they intended to sell. KENT and/or his coconspirators represented that HPG had located a cash buyer for the VICTIMS' TIMESHARES. KENT's coconspirators posed as the buyers, who communicated independently with some of the VICTIMS by email and phone. The VICTIMS used the U.S. mail to send sales contracts, sales-associated records, and payments, often in the form of checks, to HPG. KENT and/or his coconspirators represented that the payments would be used to cover a portion of the buyer's costs at closing (the date when the sale transaction was consummated) or to pay "transfer fees" assessed by the timeshare resort management company. KENT and/or his coconspirators asked the VICTIMS to send a specified amount in advance of closing, indicated that the money would be kept in escrow, and told VICTIMS that their payment would be disbursed only upon the completion of the sale of the TIMESHARE. KENT and/or his coconspirators represented that the VICTIMS could receive a refund of those payments at their request, provided the request was made before closing.

10. Once the payment was remitted and the check was cashed, KENT and/or his coconspirators often told the VICTIMS that the buyer of their TIMESHARE was having a hard time coming up with additional funds for closing. KENT and/or his coconspirators asked the VICTIMS to assist the buyers financially. In those instances VICTIMS sent a second additional

check to KENT and his coconspirators. After cashing the second check, KENT and/or his coconspirators often informed the VICTIMS that either the buyer, or KENT, posing as the facilitator of the sale transaction, had an unexpected family emergency that prevented them from going through with the sale of the TIMESHARE on the previously arranged closing date. At that point, all communication from KENT and/or his conspirators with the VICTIMS typically ceased. The VICTIMS usually attempted to contact KENT and/or his coconspirator on multiple occasions, by email and/or by phone, to demand a refund of their monies, but those attempts were unsuccessful. The TIMESHARES were never sold and refunds were never made to any of the known VICTIMS.[1]

11. In or around October 2016, those VICTIMS that had been dealing with HPG began receiving notification that all their emails were rejected because the server could not be found. At this time, persons who placed calls to phone numbers provided for HPG and KENT received a message that the phone numbers had been disconnected.

12. Law enforcement obtained copies of contracts between HPG and several VICTIMS for the sale of their TIMESHARES. These contracts indicated that either "HPG, 526 South Broadway, Baltimore, Maryland 21232" or "HPG 18585 Coastal Highway, Unit: 10, Suite: 103, Rehoboth Beach, Delaware 19971" was the "seller" of their TIMESHARES. The contract generally included a sales price and a statement that the VICTIM was to place a payment into an escrow account held by HPG to complete the sale.

[1] After VICTIMS could no longer successfully contact anyone affiliated with HPG or the purported buyer, many began contacting the Virginia Office of the Attorney General, the Better Business Bureau, the Frederick County, Virginia, Sheriff's Office, the Virginia Real Estate Board, and the counterparts for those agencies in other states to lodge complaints about KENT, his coconspirators, and HPG. Hundreds of potential victims of KENT's fraud scheme were identified through these complaints and through Wells Fargo bank records.

13. KENT and/or his coconspirators instructed some VICTIMS to use DocuSign to sign their contracts with HPG. DocuSign was a company that operates an internet-based system allowing individuals to electronically sign documents uploaded by one user and shared with another. Bank records for HPG indicated several recurring payments to DocuSign during the relevant time period.

14. The listed mailing address for HPG changed during the conspiracy. In or around June 2014, KENT listed HPG's mailing address as a commercial mail receiving center located in Rehoboth Beach, Delaware (18585 Coastal Highway, Unit 10, Rehoboth Beach, DE 19971). Although bank statements for the Wells Fargo HPG account were sent to that same Delaware address, KENT and his coconspirators instructed the VICTIMS in 2015 and 2016 who were dealing with HPG at that time to send all payments and correspondence to the address located at 206 Doe Trail, Winchester, VA 22602. VICTIMS indicated that, regardless of HPG's Maryland or Delaware addresses, they were instructed to send their correspondence to an address located at 206 Doe Trail, Winchester, VA 22602, which corresponds to a residence located within Frederick County, Virginia.

15. Most of the VICTIMS' communications with HPG occurred through email to "Michael Kent" or "Michael Dean," directed to the email address "mdeanfinancedivision@theholidaypropertygroup.net". The signature line on correspondence from that email address was:

> Michael Dean
> The Holiday Property Group LLC
> Winchester Virginia Office: 540-877-1166
> Winchester Virginia Direct Line: 540-877-1134

16. These same VICTIMS provided copies of checks they sent to HPG. Bank records show that these checks were deposited into the same Wells Fargo Bank account associated with HPG and linked to KENT's personal bank account.

17. Based on a comparison of the contracts, e-mail communications, and statements of the VICTIMS, KENT and/or his coconspirators used the same identifying information for the purported "buyers" in several different transactions simultaneously. For example, one or two "buyers" would be in the process of buying interests in 5 to 10 TIMESHARES, owned by 5 to 10 different VICTIMS, each contracted for sale in excess of $16,000, at the exact same time. VICTIMS also provided phone numbers given to them by KENT and/or his coconspirators, so they could contact the buyers of their TIMESHARE. KENT and/or his coconspirators gave the same phone numbers to multiple VICTIMS. These phone numbers are assigned to various cell phones serviced by various cell phone providers. Bank records show payments from HPG's checking account to Straight Talk wireless and Verizon wireless for multiple phone accounts.

18. On or about December 15, 2016, investigators with the OAG and Frederick County, VA Sheriff's Office interviewed Diane Bishop ("BISHOP"), the legal owner of 206 Doe Trail, Winchester, VA 22602. BISHOP informed investigators she rented the residence at 206 Doe Trail to KENT.[2] BISHOP indicated she knew KENT was operating a business known as HPG from the residence at 206 Doe Trail. BISHOP stated KENT abandoned the property at 206 Doe Trail on or about October 15, 2016.

19. BISHOP indicated KENT's business was a timeshare resale business, and that KENT had employed BISHOP's sister and other family members of BISHOP to work for him in

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[2] BISHOP provided a description of KENT and identified KENT from his driver's license photo. BISHOP also identified KENT's vehicles as a tan or gold Cadillac Escalade and silver Mercedes Benz.

that business. She did not know the nature of their employment with him. Review of the bank records from HPG indicated checks payable to at least one relative of BISHOP. In the memo line on several of these checks were names that matched to known VICTIMS of the scheme.

20. BISHOP further stated she would often make deposits at Wells Fargo bank at KENT's request into accounts controlled by KENT. She indicated these deposits consisted of checks from individuals who were in the process of selling TIMESHARES and paid KENT money for the closing of their sale.

21. Bank records show that a majority of the checks issued from HPG's Wells Fargo bank account were for the 206 Doe Trail residence, either to BISHOP for rental payments or to CFQ Services to provide residential services, including electricity and internet. In addition, a majority of the withdrawal transactions in the linked bank accounts during the 2015 and 2016 time period were through KENT's personal debit card and occurred within Frederick County, Virginia. Specifically, those transactions included the Virginia Department of Alcoholic Beverage Control, which operates liquor stores within the Commonwealth of Virginia; Toms Market, a small, local convenience store located near 206 Doe Trail; Wal-Mart, a national retail store that sells items ranging from clothing and shoes to electronics and groceries; Martins, a local grocery store in Frederick County, Virginia; and Amazon.com, an online retail store. There were also checks from the linked accounts made payable to at least one relative of BISHOP and one or two other unknown individuals. However, there were no payments made to any identifiable timeshare resort management companies, mortgage companies, title agencies, closing attorneys, or any other entities that would be reasonably related to the legitimate sale or transfer of TIMESHARES.

Vacation Properties by Owners LLC

22. VPO appears to have started operation in 2016 and continued to be active as of in or around mid-April 2017.

23. As of October 2016, bank and vehicle records indicate that after KENT shut down HPG and, as he was starting up VPO, he moved to 8 Old Printers Way, Franklin, NC 28734-7841.[3]

24. Bank records show that the bank account belonging to VPO was linked both to HPG group and to the personal debit card account held in KENT's name. From November 2016 to February 2017, the bank account for HPG was receiving and sending debits and credits to the bank account for VPO.

25. The VPO scheme followed the same pattern as the HPG scheme. KENT and/or his coconspirators contacted VICTIMS who wanted to sell their TIMESHARES and represented that the VPO had located a cash buyer for their TIMESHARE. KENT communicated with at least one VICTIM with a new email address not associated with the HGP email addresses. Coconspirators posed as the buyers and communicated independently with the VICTIMS. KENT and/or his coconspirators represented that payments were needed to cover a portion of the buyer's closing costs or associated fees and asked the VICTIMS to send a specified refundable amount in advance of closing on the transaction to be held in escrow until the completion of the TIMESHARE sale. To date, no VICTIMS of the VPO scheme have completed sales of their TIMESHARES or have received refunds.

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3 From October 2016 through January 2017, Wells Fargo mailed bank statements for HPG to an address at 8 Old Printers Way, Franklin, NC 28734-7841. A review of transactions during this time frame also indicated debit card transactions for the HPG account were conducted in person in Franklin, North Carolina. Law enforcement was able to locate the residence of 8 Old Printers Way, Franklin, NC 28734, within Macon County, North Carolina.

26. In or around September 2016 and early in October 2016, as KENT was winding up HPG and converting to VPO, law enforcement discovered a check that had been deposited into a Wells Fargo HPG bank account. Upon inspection, law enforcement discovered that the check was in fact written to VPO. Law enforcement subsequently made contact with the VICTIM who issued the check ("VICTIM 1").

27. KENT used the SUBJECT PHONE in furtherance of the fraudulent scheme. Victim 1 advised that she/he was communicating with an individual who had identified himself as Michael Scott with VPO.[4] Law enforcement learned that VICTIM 1 was still in communication with VPO and that some of these communications took place using the number associated with the SUBJECT PHONE. In addition, VICTIM 1 provided law enforcement with emails she/he had received from "SCOTT," listing the number associated with the SUBJECT PHONE as a Blackberry in the signature block, as follows:

**Michael T. Scott: GRI, CDPE**
**Direct Line: 717-212-9130**
**Blackberry: 717-654-3251**
**Vacation Properties By Owner**
**644 Shrewsbury Commons Ave**
**Shrewsbury, PA 17361**

28. VICTIM 1 communicated with "SCOTT" through the SUBJECT PHONE on April 20, 2017, regarding the details of the transfer of VICTIM 1's TIMESHARE to a buyer. In

[4] Law enforcement reviewed bank records from both HPG and VPO and determined that statements for both were being sent to the same 8 Old Printers Way address in Franklin NC. In addition, the signature cards for both sets of accounts (HPG and VPO) listed the sole account signatory as KENT.

that conversation, VICTIM 1 and "SCOTT" discussed VICTIM 1's prior transfer of funds to "SCOTT's" bank account, and the new buyers "SCOTT" had identified to purchase the property.

29. In my training and experience, I have learned that **VERIZON** is a company that provides cellular telephone access to the general public. I also know that providers of cellular telephone service have technical capabilities that allow them to collect and generate information about the locations of the cellular telephones to which they provide service, including cell-site data, also known as "tower/face information" or "cell tower/sector records." Cell-site data identifies the "cell towers" (i.e., antenna towers covering specific geographic areas) that received a radio signal from the cellular telephone and, in some cases, the "sector" (i.e., faces of the towers) to which the telephone connected. These towers are often a half-mile or more apart, even in urban areas, and can be 10 or more miles apart in rural areas. Furthermore, the tower closest to a wireless device does not necessarily serve every call made to or from that device. Accordingly, cell-site data provides an approximate location of the cellular telephone but is typically less precise than other types of location information, such as E-911 Phase II data or Global Positioning Device ("GPS") data.

30. Based on my training and experience, I know that **VERIZON** can collect cell-site data about the SUBJECT PHONE. I also know that wireless providers such as **VERIZON** typically collect and retain cell-site data pertaining to cellular phones to which they provide service in their normal course of business in order to use this information for various business-related purposes. A preservation request in regard to that information relative to the SUBJECT PHONE was sent to VERIZON on April 21, 2017, via email at the following address: VerizonLegalProcessCompliance@verizon.com.

31. Based on my training and experience, I know that wireless providers such as **VERIZON** typically collect and retain information about their subscribers in their normal course of business. This information can include basic personal information about the subscriber, such as name and address, and the method(s) of payment (such as credit card account number) provided by the subscriber to pay for wireless telephone service. I also know that wireless providers such as **VERIZON** typically collect and retain information about their subscribers' use of the wireless service, such as records about calls or other communications sent or received by a particular phone and other transactional records, in their normal course of business. In my training and experience, this information may constitute evidence of the crimes under investigation because the information can be used to identify the SUBJECT PHONE's user or users and may assist in the identification of co-conspirators and/or victims.

## AUTHORIZATION REQUEST

32. Based on the foregoing, I request that the Court issue the proposed search warrant, pursuant to 18 U.S.C. § 2703(c) and Federal Rule of Criminal Procedure 41.

33. I further request that the Court direct **VERIZON** to disclose to the government any information described in Section I of Attachment B that is within its possession, custody, or control. Because the warrant will be served on **VERIZON**, who will then compile the requested records at a time convenient to it, reasonable cause exists to permit the execution of the requested warrant at any time in the day or night.

Respectfully submitted,

/s/ Burt B. Foster, Jr.
Burt B. Foster, Jr.
U.S. Postal Inspector
U.S. Postal Inspection Service

Received by reliable electronic means and sworn and attested to by telephone on May 11, 2017.

~~Subscribed and sworn to before me on____________________, 2017~~

Honorable Joel C. Hoppe
UNITED STATES MAGISTRATE JUDGE

## ATTACHMENT A

### Property to Be Searched

This warrant applies to records and information associated with the cellular telephone assigned call number **(717) 654-3251**, ("the Account"), that are stored at premises controlled by VERIZON ("the Provider"), headquartered at 180 WASHINGTON VALLEY ROAD, BEDMINSTER, NJ 07921.

## ATTACHMENT B

### Particular Things to be Seized

**I. Information to be Disclosed by the Provider**

To the extent that the information described in Attachment A is within the possession, custody, or control of the Provider, including any information that has been deleted but is still available to the Provider or that has been preserved pursuant to a request made under 18 U.S.C. § 2703(f), the Provider is required to disclose to the government the following information pertaining to the Account listed in Attachment A for the time period **November 1, 2016 to the present**:

a. The following information about the customers or subscribers of the Account:

i. Names (including subscriber names, user names, and screen names);

ii. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses);

iii. Local and long distance telephone connection records;

iv. Records of session times and durations, and the temporarily assigned network addresses (such as Internet Protocol ("IP") addresses) associated with those sessions;

v. Length of service (including start date) and types of service utilized;

vi. Telephone or instrument numbers (including MAC addresses, Electronic Serial Numbers ("ESN"), Mobile Electronic Identity Numbers ("MEIN"), Mobile Equipment Identifier ("MEID"); Mobile Identification Number ("MIN"), Subscriber Identity Modules ("SIM"), Mobile Subscriber Integrated Services Digital Network Number ("MSISDN"); International Mobile Subscriber Identity Identifiers ("IMSI"), or International Mobile Equipment Identities ("IMEI");

vii. Other subscriber numbers or identities (including the registration Internet Protocol ("IP") address); and

viii. Means and source of payment for such service (including any credit card or bank account number) and billing records.

b. All records and other information (not including the contents of communications) relating to wire and electronic communications sent or received by the Account, including:

i. the date and time of the communication, the method of the communication, and the source and destination of the communication (such as the source and destination telephone numbers (call detail records), email addresses, and IP addresses); and

ii. information regarding the cell towers and sectors through which the communications were sent and received.

## II. Information to be Seized by the Government

All information described above in Section I that constitutes evidence and instrumentalities of violations of 18 U.S.C. §§ 1341 (mail fraud), 1343 (wire fraud), and 1349 (conspiracy to commit mail fraud and/or wire fraud) involving Michael Dean KENT and others, known and unknown during the period from **November 1, 2016 to the present.**